

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
FEBRUARY 25, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Olvany, Sini

STAFF ATTENDING: Ginsberg
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the following agenda item:

Continuation of Public Hearing regarding Subdivision Application #613, Estate of Mary Metzger/Oak Crest Developers LLC, 174 Middlesex Road. Proposing to subdivide the existing property into two lots. The subject property is located at the southeast corner formed by the intersection of Middlesex Road and Hollow Tree Ridge Road, and is shown on Assessor's Map #22 as Lot #81 in the R-1/2 Zone. *DEADLINE TO CLOSE PUBLIC HEARING IS FEBRUARY 25, 2014 UNLESS EXTENSION IS GRANTED BY APPLICANT.*

Mr. Sini explained that he missed the prior hearing on this matter, but will be listening to the audiotape of that meeting in the near future.

Attorney Robert F. Maslan, Jr. was present on behalf of the property owners. He said that there have been two public hearing sessions thus far on this application. There are three issues remaining to be resolved: traffic accidents; stone walls; and the condition of the sidewalk along Hollow Tree Ridge Road. Mr. Maslan said that Captain Anderson of the Darien Police Department recently gave staff 19 accident reports, which date from 2008-2014. There were no accidents related to driveways in the area. There are approximately 1.17 accidents per year near the Middlesex Road/Hollow Tree Ridge Road intersection. Some of the accident reports were for areas not near the intersection. Only three of the accidents had related injuries to passengers or drivers.

Attorney Maslan said that he had spoken with Captain Anderson, who said that he is against a sidewalk being constructed along Middlesex Road as part of this subdivision, which would lead to nowhere. Mr. Maslan confirmed that the owner's preference is for a dry-stacked stone wall, which is what they are proposing. While there will be some mortar used, it would not be visible. The stone wall would be no higher than four feet.

Attorney Maslan said that he looked at the condition of the existing sidewalk along Hollow Tree Ridge Road adjacent to the subject property. He noted that it is in good condition and is actually on Town property within the roadway.

Mr. DiDonna said that he had read the e-mail dated 2/18/2014 from Captain Anderson, who foresees "a potential problem with the egress...". Mr. DiDonna's concern was with the distance from the new driveway on lot C to the intersection. He noted that Hollow Tree Ridge Road and Middlesex Road do not intersect at right angles. He wondered whether it would be possible to move the driveway further east, and/or share driveways. Mr. Maslan responded by noting that the

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lots will all have hammerheads/ turnarounds on their property to avoid vehicles backing into Middlesex Road. The Town specifications from the Department of Public Works had been submitted for the record. The driveway flare with their five foot radius cannot be in front of an adjoining property. There is 68 feet from the center of the proposed driveway on Lot C to the stop bar on Middlesex Road.

Mr. DiDonna noted that there is queuing during certain times of the day, and a school crossing guard is present before and after middle school hours. He confirmed that Captain Anderson foresees a problem here. Mr. Maslan mentioned that shared driveways can be a problem, especially regarding plowing and maintenance. Mr. DiDonna recommended putting all of the driveways as far to the east on each lot as possible. Mr. Maslan responded that this would be done. Mr. John Martucci, professional engineer, of LBM Engineering, said that they can move the proposed driveway for Lot C closer to the eastern property line of that proposed lot. He added that it will be difficult to make a left out of that driveway during certain times. Mr. Olvany agreed, noting that the property owner would likely make a right turn, and then turn south on Edgerton Street, one block away, rather than turn left. Mr. DiDonna asked whether the sight lines could be improved by rearranging the property lines. Mr. Martucci responded that the property lines cannot be adjusted, however, they could move the proposed driveways. Mr. Olvany said that the proposed driveway for Lot B should not be moved, since it has been specifically sited to line up with the driveway directly across the street. He suggested only moving the Lot C proposed driveway.

There were no further questions or comments from Commission members, and no comments from members of the general public. Mr. Olvany then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Sini, and was unanimously approved.

At about 8:20 p.m., Ms. Cameron then read the next agenda item:

Proposed Amendments to the Darien Zoning Regulations (COZR #1-2014) put forth by the Darien Planning & Zoning Commission regarding a temporary moratorium related to medical marijuana dispensaries and production facilities. The Commission proposes a new Subsection 1134 of the Zoning Regulations, which establishes a one-year moratorium on medical marijuana dispensaries and production facilities. A copy of the proposal is on file with the Town Clerk's office, Town Hall, and Planning and Zoning Commission at the Town Hall and may be inspected there during regular business hours or on the Town website at www.darienct.gov.

Jeremy Ginsberg, Planning & Zoning Director, explained that there was a recent State law and associated regulations adopted to allow medical marijuana in the State of Connecticut. He said that the State has approved four production facilities, and expects to issue approvals for 3-5 dispensaries sometime in April 2014. He explained that there are 1,684 patients who qualify as of January 2014, and this number is expected to grow.

He recommended a moratorium for Darien. This would allow the Planning and Zoning Commission the ability to see and understand how other communities address/handle this issue. It would allow the Commission to see the relationship between the State and Federal Government, as there are now issues with many banks being hesitant to finance these facilities. The Federal Government does not permit the growing or use of medical marijuana. Mr. Ginsberg said that the State may also allow additional dispensary and production facility permits to meet demand. A

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moratorium would also be helpful to see whether the Department of Consumer Protection adds to the number of qualified patients and/or adds to the permitted medical conditions or treatments which can be treated with medical marijuana.

Mr. Ginsberg noted that California was the first State to allow medical marijuana use in 1996. Connecticut is the 17th State, allowing it in May of 2012. There are now 20 States which allow this.

The moratorium would give the Planning and Zoning Commission time to analyze the issue, and determine whether these uses should be allowed within the Town of Darien, and if so, where and how should they be regulated. He noted that some communities have allowed production facilities within industrial zones; however, Darien does not have industrial zones. One issue is how much is a dispensary like or unlike a traditional pharmacy. Mr. Ginsberg noted that anyone can enter a pharmacy, but only approved patients from the State of Connecticut can enter a medical marijuana dispensary.

In response to a question, Mr. Ginsberg noted that Ridgefield, Westport, Greenwich, Ansonia, and New Canaan had one year moratoriums adopted in late 2013. West Hartford and Shelton also adopted moratoriums.

Mr. Ginsberg then read aloud the comments received from SWRPA and the Darien Police Department. He said that he believes that the proposal is consistent with the 2006 Town Plan of Conservation & Development.

Ms. Cameron said that the regulations promulgated by the Department of Consumer Protection regarding this matter were quite extensive. Mr. Cunningham noted the importance of getting this right, and in order to do so, the Commission needs usable feedback. Mr. Ginsberg said that he had spoken with the Connecticut Conference of Municipalities (CCM), who was able to provide some helpful feedback. Mr. Olvany said that there needs to be a time period established which would allow the Commission to understand how a dispensary works. Mr. DiDonna mentioned that marijuana use is now illegal under Federal law and that therefore, medical marijuana sold in Connecticut must be produced in Connecticut. Mr. Sini wondered if a shorter moratorium would still be feasible. Mr. DiDonna suggested the possibility of nine months. Mr. Cunningham suggested that in lieu of a shorter moratorium, it would be appropriate for staff to present findings in September, and if the Commission is able to address the issue in less than a year, that would also be fine.

There were no further questions or comments from Commission members, and no comments or questions from members of the general public. Mr. Olvany then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Sini, and was unanimously approved.

At about 8:35 p.m., Ms. Cameron then read the next agenda item:

Special Permit Application #160-D, AT&T (New Cingular Wireless, PCS, LLC), 24 Chestnut Street. Proposing to install twelve panel antennas behind the existing water tank enclosure, install a replacement generator, and perform related site development activities. The subject property is located on the north side of Chestnut Street approximately 220 feet east of its intersection with Noroton Avenue, and is shown on Assessor's Map #20 as Lot #60 in the R-1/3 Zone.

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Attorney Lucia Chiocchio of Cuddy & Feder, LLP was present on behalf of the applicant, AT&T. She said that they propose to co-locate twelve panel antennas behind the existing shroud. Verizon already has antennas on the tank. They will replace the existing generator with a new generator, which will be used in emergency situations. The building is usually locked. Nothing is changing from what one can see now.

In response to a question, Ms. Chiocchio said that AT&T is on other tanks and towers in Town, including the one on Tower Drive. The AT&T network must keep up with demand. Mr. DiDonna asked whether the proposed AT&T antennas would interfere with the Verizon antennas now on site. Ms. Chiocchio replied that they would not, and added that Verizon is only a lessee on the site, and AT&T does not need their permission to proceed with this application. Aquarion Water Company owns the site. She explained that they will make an agreement with Verizon on the sharing of the proposed generator. Mr. Sini then asked about the construction time for this project. Ms. Chiocchio responded that the project should take about a month.

There were no further questions or comments from Commission members, and no comments from members of the general public. Mr. Olvany then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Sini, and was unanimously approved.

At about 8:45 p.m., Ms. Cameron then read the next agenda item:

Land Filling & Regrading Application #320, Bourdo, LLC, 120 Long Neck Point Road.

Proposing to regrade the back yard of the property and construct associated retaining walls and perform related site development activities. The subject property is located on the west side of Long Neck Point Road approximately 600 feet north of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #60 as Lot #7 in the R-1 Zone.

Mr. Jeff McDougal of William Seymour & Associates was present on behalf of the applicant. He explained that stone retaining walls with footings are proposed, and those walls will range from zero to four feet high. Some drainage is proposed as part of this application.

John Martucci, professional engineer of LBM Engineering, explained that they will be flattening the rear yard. There is no change to the front yard, which is now flat. Two infiltrators are proposed. The stone walls will be loose jointed. Ms. Cameron asked whether Mr. Martucci will be signing and sealing the plan on which the test pit data exists. He replied that he could. Mr. Martucci said that there is no change in the amount of impervious surface proposed as part of this application. They will be leveling the grade of the back yard in order to reduce the velocity of the water. They will be improving the existing drainage situation.

Mr. Olvany asked about the face of the wall on the west side of the property. Mr. Martucci responded that the wall will be four feet high maximum at the southwest corner of the property. There will be no wall at the northwest corner of the property. The wall will be slightly higher than the lawn. Mr. McDougal confirmed that to the west of the wall, the adjacent Marber property, is wooded. Ms. Cameron asked about the possibility of installing a rain garden. Mr. Martucci responded that by flattening the yard, they are improving the stormwater management, which will improve the amount of infiltration occurring.

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There were no further questions or comments from Commission members, and no comments from members of the general public. Mr. Cunningham then made a motion to close the public hearing on this matter. That motion was seconded by Mr. DiDonna, and was unanimously approved.

At about 8:55 p.m., Ms. Cameron then read the next agenda item:

GENERAL MEETING

Amendment of Subdivision Application #544-A, Jaime & Christina Vicencio, 19 Morley Lane.
Request to amend roof line over previously approved garage.

Mr. Ginsberg explained the proposed amended plans, and summarized the plans prepared by Manny DaSilva. Those plans show the changes to the roof line and the second floor of the house previously approved by the Commission in 1996/1997. Mr. Ginsberg acknowledged that this would increase the size of the house, but would have no effect on the work occurring on the ground. He noted that it is a difficult lot to develop, due to a variety of features such as the existing on-site cemetery, steep slopes, ledge, and a conservation easement adjacent to the Goodwives River. Mr. Olvany asked what the increase in the house size would be. Mr. Vicencio confirmed that the house would be 3,600 square feet, not including the basement. Mr. Olvany noted that this would be a big house on a small lot.

Mr. Ken DeLeo, of 16 Morley Lane, said that he now lives adjacent to the property, and confirmed that it is a difficult site to develop. He said that the change in the roof line would make the house look better, and due to the topography of the lot, very little of the house would be seen from the Morley Lane pavement. He confirmed that his house at 16 Morley Lane is over 5,000 square feet in size.

Mr. DiDonna then made a motion to approve the plans. That motion was seconded by Mr. Sini, and was approved by a vote of 4-1, with Mr. Olvany voting against the motion.

Ms. Cameron then read the next agenda item:

Discussion, deliberation and possible decision on the following if public hearing is closed:
Proposed Amendments to the Darien Zoning Regulations (COZR #1-2014) put forth by the Darien Planning & Zoning Commission regarding a temporary moratorium related to medical marijuana dispensaries and production facilities. The Commission proposes a new Subsection 1134 of the Zoning Regulations, which establishes a one-year moratorium on medical marijuana dispensaries and production facilities. A copy of the proposal is on file with the Town Clerk's office, Town Hall, and Planning and Zoning Commission at the Town Hall and may be inspected there during regular business hours or on the Town website at www.darienct.gov.

Ms. Cameron said that she is in favor of the moratorium, for a period of up to one year. Mr. Cunningham agreed, noting that he would like to have a progress update in September or October 2014. Mr. Olvany said that he is worried about the possibility of crime, and he asked that Mr. Ginsberg contact communities that have dispensaries and/or production facilities to hear more about their experiences. Mr. Cunningham also suggested checking in with David Knauf of the Darien Health Department.

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Mr. DiDonna made a motion to adopt the zoning regulation amendment. That motion was seconded by Mr. Olvany, and approved by a vote of 5-0. Mr. Ginsberg noted that publication of the legal notice on this would occur on Friday March 7, and he suggested that the regulation amendment (the moratorium) take effect on Sunday March 9, 2014. All Commission members agreed.

Ms. Cameron then read the next agenda item:

Flood Damage Prevention Application #340, Ken DeLeo, 21 Canoe Trail.

Proposed filling/excavating/regrading work within flood zone to accommodate septic system, and associated compensating area.

Mr. Ginsberg explained the proposal being put forth. There is no construction occurring within the flood zone, only filling/excavating/regrading work within flood zone to accommodate septic system, and associated compensating area. He confirmed that professional engineer Doug DiVesta has written a letter dated February 17, 2014, noting that this work would not have any impacts.

Mr. Ken DeLeo, the property owner, said that he has reviewed the plans informally with many of the neighbors. He said that the Darien Land Trust has sent a letter of approval. He noted that the work they propose to do will, in effect, create a rain garden. He confirmed that although about a dozen trees will be removed for this project, he expects to create a nicely landscaped property.

Mr. DiDonna then made a motion to approve the submitted plans. That motion was seconded by Mr. Olvany, and was unanimously approved.

Ms. Cameron then read the next agenda item:

Amendment of Business Site Plan #24-V, Goodwives Shopping Center, Old King's Highway North. Request to install electric car charger adjacent to one parking space near People's Bank.

Mr. Ginsberg explained the project. He noted that he has been working with Maziar Dalaeli of IPPsolar L.L.C, who has received a grant to install such car chargers in a number of communities within the area. Mr. Ginsberg said that this specific parking space near People's Bank was deliberately selected because it is "out of the way", and not a prime parking space. It also gives reasonable access to CL&P power. Commission members noted the presence of similar chargers in other locations in Darien, such as at the newly-renovated rest stops on I-95. They confirmed that although one was approved for the high school, it has not yet been installed.

Mr. Olvany asked that prior to the Commission acting upon this request, that the applicant get a signed authorization from Goodwives Shopping Center. Mr. Ginsberg said that he would relay the concern to the applicant, and have him return to the Commission at an early March meeting.

Ms. Cameron then read the next agenda item:

Amendment of Coastal Site Plan Review #273, Jerrold & Sally Fine, 172 Long Neck Point Road. Request to amend planting plan.

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Scott Deniston of Young's Nurseries reviewed his two-page letter dated 2/18/14, and the associated 11" x 17" plan for 172 Long Neck Point Road. He explained that beach grass is desired in this location. He said that there would be 200 cubic yards of sand/fill needed. There would be mowed paths included, as shown on the plans. The area would not be irrigated (except for temporary irrigation at the start of the project), and it will be low-maintenance plantings. There will be fewer shrubs. In response to a question, Mr. Deniston confirmed that the plantings would need to withstand salt spray.

Mr. Olvany made a motion to approve the request. That motion was seconded by Mr. Sini, and was approved by a vote of 5-0.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna, and unanimously approved. The meeting was adjourned at 9:25 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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